

Application No.: 10/626168

Docket No.: SIW-034CPRCE

**REMARKS**

The foregoing amendment amends claim 11, cancels claims 1-6 and adds claims 25-27. Claims 7-10 and 19-24 was canceled previously. Pending in the application are claims 11-18 and 25-27, of which claim 11 is independent.

**Interview and Claim Amendments**

Applicants thank the Examiner for the courtesy of a telephone interview conducted on April 24, 2007. During the interview, Applicants proposed a claim amendment to overcome the cited reference. The Examiner indicated that the proposed amendment is not sufficient to overcome the prior art reference. Based on the discussion with the Examiner during the interview, Applicants further amend claim 11 to clarify the distinction between the present application and the cited prior art reference. Support for the claim amendment can be found in the figures and corresponding descriptions in the specification of the present application, for example, Fig. 23. No new matter is added. The following comments address all stated grounds for rejection and place the presently pending claims, as identified above, in condition for allowance.

**Rejection of Claims 11-14 and 16-18 under 35 U.S.C. §102**

Claims 11-14 and 16-18 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Number 5,232,792 ("Reznikov"). Applicants respectfully traverse the rejection.

Applicants respectfully submit that the Reznikov reference does not disclose "an outer seal member sandwiched between the first and second separators at a position surrounding an outer periphery of the electrode assembly, wherein the outer seal member contacts the inner surface of both of the first and second separators," as recited in claim 11.

In the Office Action, the Examiner notes that Component 31 depicted in FIG. 1 of the Reznikov reference corresponds to the outer seal member of claim 11. (See the Office Action, Page 2). Applicants respectfully disagree.

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In the Reznikov reference, Component 31 is an electrolyte seal member that contacts the separator plate (20), current collector (14'), and electrolyte (11'). Component 31 of the Reznikov reference is not sandwiched between separators at a position surrounding the outer periphery of the electrode assembly. Component 31 does not surround the outer periphery of the electrolyte (11'). Moreover, Component 31 of the Reznikov reference does not contact the inner surface of both of the separators, as required in claim 11.

Furthermore, Applicants submit that the Reznikov reference does not disclose that "there is a step formed on the second separator at a position located between where the outer seal member and the backing member contact the inner surface of the second separator," as recited in claim 11.

The Examiner notes that "at contact surfaces between the *inner seal*, outer seal there is a step (Figure 1, next to component 17) (emphasis added)." (See the Office Action, Page 3). Claim 11 however recites that "there is a step formed on the second separator at a position located between where the outer seal member and *the backing member* contact the inner surface of the second separator (emphasis added)." The portion next to component 17 depicted in Figure 1 of the Reznikov reference is not "a step formed on the second separator at a position located between where the outer seal member and the backing member contact the inner surface of the second separator," as recited in claim 1.

In light of the foregoing amendments and arguments, Applicants submit that Reznikov does not disclose each and every element of claim 11. Applicants therefore request that the Examiner reconsider and withdraw the rejection of claims 11-14 and 16-18 under 35 U.S.C. §102(b), and pass the claims to allowance.

Rejection of Claim 15 under 35 U.S.C. §103

Claim 15 is rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Number 5,232,792 ("Reznikov"). Applicants respectfully traverse the rejection.

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Claim 15 depends from claim 11 and adds separate and patentable limitations to claim 11. Applicants submit that the Reznikov reference does not teach "an outer seal member sandwiched between the first and second separators at a position surrounding an outer periphery of the electrode assembly, wherein the outer seal member contacts the inner surface of both of the first and second separators," as recited in claim 11. The Reznikov reference does not teach that "there is a step formed on the second separator at a position located between where the outer seal member and the backing member contact the inner surface of the second separator," as recited in claim 11.

Claim 15, which depends from claim 11, is not rendered obvious over the cited reference. Applicants therefore request that the Examiner reconsider and withdraw the rejection of claim 15 under 35 U.S.C. §103(a), and pass the claim to allowance.

#### Double Patenting Rejection

Claims 1-6 are rejected under 35 U.S.C. §101 as claiming the same invention as that of claims 1-6 of U.S. Patent Number 6,815,115 B1. Applicants cancel claims 1-6. In view of this, Applicants submit that the rejection of claims 1-6 is moot.

#### New Claims

Applicants add new claims 25-27 to depend from claim 11 to clarify the scope of the present application. Claim 25 recites that "the inner seal member contacts the electrolyte membrane at a first contact portion and the backing member contacts the electrolyte membrane at a second contact portion, wherein the backing member and the inner seal member are disposed in registration in a stacking direction of the fuel cell such that the first and second contact portions are aligned along an axis that extends in the stacking direction." Support for the new claim can be found in the figures and corresponding descriptions in the specification of the present application, for example, Fig. 23. No new matter is added.

Claim 26 recites that "the outer seal member is a single unitary member that spans between the first and second separators." Support for the new claim can be found in the figures

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and corresponding descriptions in the specification of the present application, for example, Fig. 23. No new matter is added.

Claim 27 recites that "the first and second separators are separated from each other a first distance at a location where the outer seal member contacts the inner surface of both of the first and second separators, and the first and second separators are separated from each other a second distance at a location where the backing member contacts the inner surface of the second separator, wherein the second distance is greater than the first distance." Support for the new claim can be found in the figures and corresponding descriptions in the specification of the present application, for example, Fig. 23. No new matter is added.


Claims 25-27 incorporate the patentable features of claim 1. Furthermore, the cited Reznikov reference does not teach the features added in claims 25-27. As such, Applicants submit that claims 25-27 recite patentable subject matter over the cited prior art reference.

#### Conclusion

In view of the above amendment, applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

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